

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN SENATE MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 625

Introduced by Assembly Member Quirk

February 20, 2013

An act to amend Section 1185 of the Civil Code, and to amend Section 8230 of the Government Code, relating to notaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 625, as amended, Quirk. Notaries Public: acceptance of identification.

(1) Existing law relating to property transfers specifies certain documents as allowable forms of identification for a credible witness, who, by oath or affirmation, attests to the identity of an individual executing a written instrument in the presence of, and acknowledged by, a notary public. Existing law specifies that an inmate identification card that is current or has been issued within 5 years by the Department of Corrections and Rehabilitation if the inmate is in custody is an allowable form of identification, for purposes of these provisions, if it contains certain identifying information, including a photograph and description of the person named on it, is signed by the person, and has a serial or other identifying number.

This bill would *recast those provisions to make—that an inmate identification card without that additional identifying information that is current or has been issued within 5 years by the department, if the inmate is in custody in prison, an allowable form of identification for a credible witness to prove the identity of an individual who executes*

a written instrument, *and to delete the requirement that the card have the additional identifying information.*

(2) Existing law requires a notary public when notarizing a document that purports to identify the affiant, as specified, to verify the affiant's identity using either a certified copy of the person's birth certificate or an identification card or a driver's license issued by the Department of Motor Vehicles.

This bill would also authorize a notary public to accept as verification, an inmate identification card issued by the Department of Corrections and Rehabilitation, if the inmate identification card contains the inmate's date of birth and the inmate is in custody *in prison*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the following:
2 (a) The state and its counties have a financial and public safety
3 interest in ensuring the children of people convicted of felonies
4 and sentenced to state prison time have access to appropriate
5 schooling and medical treatment. Eighty percent of imprisoned
6 women are mothers and the vast majority were the primary care
7 provider of minor children at the time of their arrest and
8 imprisonment. These minor children's access to school and medical
9 treatment may be unnecessarily interrupted should their
10 incarcerated parent lack timely and affordable access to a notary
11 necessary for them to complete paperwork to establish temporary
12 guardianship for their children.
13 (b) The state and its counties have a financial and public safety
14 interest in ensuring people convicted of felonies and sentenced to
15 state prison time are able to successfully reenter their communities
16 upon completion of their sentences and live a crime-free life.
17 Evidence-based research demonstrates a clear connection between
18 decreased recidivism rates and strength of familial bonds during
19 periods of incarceration. These bonds are weakened when minor
20 children are unnecessarily prevented from visiting incarcerated
21 parents due merely to the incarcerated parents' lack of timely and
22 affordable access to a notary public required to complete required
23 visitation forms.

1 (c) The state has taken significant measures to ensure due
2 process and accuracy in determining the identity of people
3 convicted of felonies and held in control of the Department of
4 Corrections and Rehabilitation, and in tracking these individuals'
5 appropriate identity through issuance and monitoring of state
6 inmate identification cards.

7 SEC. 2. Section 1185 of the Civil Code is amended to read:

8 1185. (a) The acknowledgment of an instrument shall not be
9 taken unless the officer taking it has satisfactory evidence that the
10 person making the acknowledgment is the individual who is
11 described in and who executed the instrument.

12 (b) For purposes of this section, "satisfactory evidence" means
13 the absence of information, evidence, or other circumstances that
14 would lead a reasonable person to believe that the person making
15 the acknowledgment is not the individual he or she claims to be
16 and any one of the following:

17 (1) (A) The oath or affirmation of a credible witness personally
18 known to the officer, whose identity is proven to the officer upon
19 presentation of a document satisfying the requirements of paragraph
20 (3) or (4), that the person making the acknowledgment is personally
21 known to the witness and that each of the following are true:

22 (i) The person making the acknowledgment is the person named
23 in the document.

24 (ii) The person making the acknowledgment is personally known
25 to the witness.

26 (iii) That it is the reasonable belief of the witness that the
27 circumstances of the person making the acknowledgment are such
28 that it would be very difficult or impossible for that person to
29 obtain another form of identification.

30 (iv) The person making the acknowledgment does not possess
31 any of the identification documents named in paragraphs (3) and
32 (4).

33 (v) The witness does not have a financial interest in the
34 document being acknowledged and is not named in the document.

35 (B) A notary public who violates this section by failing to obtain
36 the satisfactory evidence required by subparagraph (A) shall be
37 subject to a civil penalty not exceeding ten thousand dollars
38 (\$10,000). An action to impose this civil penalty may be brought
39 by the Secretary of State in an administrative proceeding or a public
40 prosecutor in superior court, and shall be enforced as a civil

1 judgment. A public prosecutor shall inform the secretary of any
2 civil penalty imposed under this subparagraph.

3 (2) The oath or affirmation under penalty of perjury of two
4 credible witnesses, whose identities are proven to the officer upon
5 the presentation of a document satisfying the requirements of
6 paragraph (3) or (4), that each statement in paragraph (1) is true.

7 (3) Reasonable reliance on the presentation to the officer of any
8 one of the following, if the document is current or has been issued
9 within five years:

10 (A) An identification card or driver's license issued by the
11 Department of Motor Vehicles.

12 (B) A passport issued by the Department of State of the United
13 States.

14 (C) An inmate identification card issued by the Department of
15 Corrections and Rehabilitation, if the inmate is in custody *in prison*.

16 (4) Reasonable reliance on the presentation of any one of the
17 following, provided that a document specified in subparagraphs
18 (A) to (E), inclusive, shall either be current or have been issued
19 within five years and shall contain a photograph and description
20 of the person named on it, shall be signed by the person, shall bear
21 a serial or other identifying number, and, in the event that the
22 document is a passport, shall have been stamped by the United
23 States Citizenship and Immigration Services of the Department of
24 Homeland Security:

25 (A) A passport issued by a foreign government.

26 (B) A driver's license issued by a state other than California or
27 by a Canadian or Mexican public agency authorized to issue
28 driver's licenses.

29 (C) An identification card issued by a state other than California.

30 (D) An identification card issued by any branch of the Armed
31 Forces of the United States.

32 (E) An employee identification card issued by an agency or
33 office of the State of California, or by an agency or office of a city,
34 county, or city and county in this state.

35 (c) An officer who has taken an acknowledgment pursuant to
36 this section shall be presumed to have operated in accordance with
37 the provisions of law.

38 (d) A party who files an action for damages based on the failure
39 of the officer to establish the proper identity of the person making

1 the acknowledgment shall have the burden of proof in establishing
2 the negligence or misconduct of the officer.

3 (e) A person convicted of perjury under this section shall forfeit
4 any financial interest in the document.

5 SEC. 3. Section 8230 of the Government Code is amended to
6 read:

7 8230. If a notary public executes a jurat and the statement
8 sworn or subscribed to is contained in a document purporting to
9 identify the affiant, and includes the birthdate or age of the person
10 and a purported photograph or fingerprint or thumbprint of the
11 person so swearing or subscribing, the notary public shall require,
12 as a condition to executing the jurat, that the person verify the
13 birthdate or age contained in the statement by showing any of the
14 following:

15 (a) A certified copy of the person's birth certificate.

16 (b) An identification card or driver's license issued by the
17 Department of Motor Vehicles.

18 (c) An inmate identification card issued by the Department of
19 Corrections and Rehabilitation, if the inmate identification card
20 contains the inmate's date of birth and the inmate is in custody *in*
21 *prison*.

22 For the purposes of preparing for submission of forms required
23 by the United States Immigration and Naturalization Service, and
24 only for these purposes, a notary public may also accept for
25 identification any documents or declarations acceptable to the
26 United States Immigration and Naturalization Service.